

FILED

JUN 05 2013

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY *[Signature]* DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
PECOS DIVISION

CATHERINE DALE JABLONOWSKI and §  
MARNIE FREUND BEAMESDERFER §  
§  
vs. §  
§  
EFREN HERRERA, A & A LOGISTICS, §  
INC. and AMERIMEX PROPERTIES, INC. §

CASE NO. P-13-CV-28

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants Efren Herrera, A & A Logistics, Inc. and Amerimex Properties, Inc., hereinafter referred to as "Defendants," hereby remove Cause No. 13-05-20,357-CVR from the 143<sup>rd</sup> Judicial District Court of Reeves County, Texas, to the United States District Court for the Western District of Texas, Pecos Division, pursuant to 28 U.S.C. Sections 1332, 1441 and 1446, and as grounds for removal would show as follows:

Statement of Case

1. On May 3, 2013, Plaintiffs Catherine Dale Jablonowski and Marnie Freund Beamesderfer filed a Plaintiffs' Original Petition in the 143<sup>rd</sup> Judicial District Court of Reeves County, Texas, styled ***Catherine Dale Jablonowski and Marnie Freund Beamesderfer vs. Efren Herrera, A & A Logistics, Inc. and Amerimex Properties, Inc.***

being Cause No. 13-05-20,357-CVR (the "State Court Action"). A copy of the Plaintiffs' Original Petition with exhibits is attached as Exhibit "A," hereto.

2. Defendant Amerimex Properties, Inc. was served with the Plaintiffs' Original Petition on or about May 10, 2013, and Defendant Efren Herrera was served with a copy of the Plaintiffs' Original Petition on or about May 21, 2013. Defendant A & A Logistics, Inc. filed an Answer in the State Court Action on or about June 5, 2013, before service of citation upon it.

3. The Plaintiffs' Original Petition asserts a negligence cause of action against Defendant Efren Herrera arising out of an accident that occurred on or about November 29, 2012, in Reeves County, Texas, resulting in the death of Ronald Julius Freund. Plaintiffs claim that Defendants A & A Logistics, Inc. and Amerimex Properties, Inc. are responsible for the conduct of Defendant Efren Herrera under the doctrine of **Respondeat Superior**. Plaintiffs Catherine Dale Jablonowski and Marnie Freund Beamesderfer allege that they are entitled to recover damages from the Defendants as surviving children and heirs of the Estate of Ronald Julius Freund. Plaintiffs seek to recover Wrongful Death Damages from the Defendants, as well as exemplary damages. They allege personal injury damages in excess of \$1,000,000.00

#### Diversity Jurisdiction

4. Under 28 U.S.C. Section 1332(a), this Court has jurisdiction over this matter because there is complete diversity of citizenship between the Plaintiffs and the Defendants and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

5. Plaintiff Catherine Dale Jablonowski alleges that she is a resident of the State of California and Plaintiff Marnie Freund Beamesderfer alleges that she is a resident of the State of Pennsylvania.

6. Defendant Efren Herrera is a resident and citizen of the State of Texas.

7. Defendant A & A Logistics, Inc. is a citizen of the State of Texas where it has been incorporated and where it has its principal place of business.

8. Defendant Amerimex Properties, Inc. is a citizen of the State of Texas where it has been incorporated and where it has its principal place of business.

**All Procedural Requirements For Removal Have Been Satisfied**

9. Pursuant to 28 U.S.C. Section 1446(a), a true and correct copy of all the process, pleadings, orders, and documents from the State Court Action which has been served upon these Defendants are being filed with this Notice of Removal. Defendants will file true and legible copies of all other documents on file in the State Court Action, within thirty (30) days of the filing of this Notice of Removal.

10. This Notice of Removal has been filed within thirty (30) days of the date that each Defendant was served with Summons or the Complaint in this matter, or received a copy of the same. The removal is therefore timely and in accordance with 28 U.S.C. Section 1446(b).

11. Venue is proper in this Court pursuant to 28 U.S.C. Section 1441(a) and 1446(a) because the United States District Court for the Western District of Texas, Pecos Division is the Federal Judicial District embracing the Court in which the State Court Action was originally filed.

12. All Defendants join in and consent to this removal.

**Conclusion**

13. By this Notice of Removal, Defendants do not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendants intend no admission of fact, law or liability by this Notice, and expressly reserve all defenses, motions and/or pleadings.

Dated this 5<sup>th</sup> day of June, 2013.

  
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**Attorneys for Defendant Efren Herrera,  
A & A Logistics, Inc. and Amerimex  
Properties, Inc.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been transmitted via facsimile this \_\_\_\_\_ day of \_\_\_\_\_, 2013, to all counsel of record.

**Attorney for Plaintiff:**

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